

AN ORDINANCE  
BY



01-0-0315

**AN ORDINANCE AUTHORIZING THE MAYOR TO  
EXECUTE AN INTERIM FRANCHISE AGREEMENT WITH  
PROGRESS TELECOMMUNICATIONS CORPORATION, A  
FLORIDA CORPORATION, FOR THE PROVISION OF  
TELECOMMUNICATIONS SERVICES USING PUBLIC  
RIGHT-OF-WAY; AND FOR OTHER PURPOSES**

**WHEREAS**, Progress Telecommunications Corporation, has applied for a franchise to provide telecommunications services on, under, over and through the public right-of-way of the City; and

**WHEREAS**, the City intends to enact a comprehensive ordinance governing such use of its right-of-way, pursuant to the federal 1996 Telecommunications act, but wishes to provide access to its right-of-way, on an interim and nondiscriminatory basis; and

**WHEREAS**, Progress Telecommunications Corporation has negotiated an interim franchise agreement with the City which provides such access and preserves the rights of the City until such time as a comprehensive ordinance is enacted;

**NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF ATLANTA GEORGIA  
HEREBY ORDAINS:**

**SECTION 1:** That the Mayor be and is hereby authorized to execute an interim franchise agreement in substantially similar form as attached, with Progress Telecommunications Corporation, for use of the public right-of-way for telecommunications purposes.

**SECTION 2:** That such interim franchise agreement shall expire and terminate on March 31, 2001.

**SECTION 3:** That Progress Telecommunications Corporation, shall pay a franchise fee of three percent (3%) of gross revenues.

**SECTION 4:** That the City Attorney shall prepare a franchise agreement document, which shall be approved by the city Attorney as to form.

**SECTION 5:** That said franchise agreement shall not be binding on the City until approved by the Mayor and delivered to Progress Telecommunications Corporation.

## **INTERIM FRANCHISE AGREEMENT**

This **AGREEMENT**, executed as of the \_\_\_\_ day of \_\_\_\_\_, 2001 (the "Effective Date"), by and between **THE CITY OF ATLANTA, GEORGIA** (hereinafter referred to as the "City"), and **Progress Telecommunications Corporation**, a Florida corporation duly organized and validly existing under the laws of the State of Georgia, whose principal place of business is located at 100 Second Avenue South, Suite 500, South, St. Petersburg, FL 33701 (hereinafter referred to as the "Grantee").

### **W I T N E S S E T H:**

**WHEREAS**, the City has the authority pursuant to applicable State and local laws to grant franchises and other authorizations for the use and occupancy of the Streets (as hereinafter defined);

**WHEREAS**, consistent with applicable law, the City desires to manage the Streets and obtain fair and reasonable compensation from Telecommunications Providers (as hereinafter defined) for the use of the Streets on a non-discriminatory basis;

**WHEREAS**, the Grantee desires to obtain a franchise to use and occupy the Streets for the purpose of constructing and maintaining a Telecommunications System (as hereinafter defined) and providing Telecommunications Services (as hereinafter defined) on a competitively neutral and nondiscriminatory basis in accordance with the Federal Telecommunications Act of 1996, 47 U.S.C. § 151 et. seq.;

**WHEREAS**, the City intends to exercise, to the fullest extent permitted by applicable law, its authority with respect to the regulation of the occupation and use of the Streets in connection with the provision of Telecommunication Services;

**WHEREAS**, the City is considering the adoption of a comprehensive telecommunications ordinance that would, consistent with applicable laws, establish the procedures and requirements for granting franchises for the use of the Streets in connection with the provision of Telecommunications Services (the "Telecommunications Ordinance");

**WHEREAS**, the Grantee has requested that the City grant it a telecommunications franchise prior to adoption of the Telecommunications Ordinance to permit the Grantee to proceed with the construction of a Telecommunications System;

**WHEREAS**, in response to the Grantee's request, the City has agreed to grant a telecommunications franchise to the Grantee and enter into this Agreement prior to adoption of the Telecommunications Ordinance; and

**WHEREAS**, the Grantee understands and acknowledges that if the City adopts the Telecommunications Ordinance, the Grantee shall be subject to the requirements of such ordinance, which requirements shall be in addition to the terms and conditions of this Agreement;

**NOW, THEREFORE**, in consideration of the foregoing clauses, which clauses are hereby made a part of this Agreement, the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby covenant and agree as follows:

01-0-0315

(Do Not Write Above This Line)

AN ORDINANCE

*[Signature]*

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Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Referred to \_\_\_\_\_

First Reading

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION

☐ 2nd ☐ 1st & 2nd ☐ 3rd  
Readings  
☐ Consent ☐ V Vote ☐ RC Vote

CERTIFIED

MAYOR'S ACTION

☐ CONSENT REFER

☐ REGULAR REPORT REFER

☐ ADVERTISE & REFER

☐ 1st ADOPT 2nd READ & REFER

☒ PERSONAL PAPER REFER

Date Referred 2/19/01

Referred To: City Utilities

Date Referred

Referred To:

Date Referred

Referred To:

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

**Large  
document  
attached**